



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-900)

Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review; 2011-2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On May 11, 2016, the United States Court of International Trade (the Court) sustained our final remand redetermination pertaining to the administrative review of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China covering the period November 1, 2011, through October 31, 2012 (third administrative review).¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department of Commerce (the Department) is notifying the public that the Court's final judgment in this case is not in harmony with the *AR3 Final Results*² and that the Department is amending the *AR3 Final Results* with respect to the PRC-wide entity, including the ATM Single Entity.³

¹ See *Gang Yan Diamond Products, Inc. v. United States*, Court No. 14-00148, slip op. 16-49, 2016 Ct. Intl. Trade LEXIS 49 (Ct. Int'l Trade May 11, 2016); Final Remand Redetermination pursuant to *Gang Yan Diamond Products, Inc. v. United States*, Court No. 14-00148, slip op. 15-127, (Ct. Int'l Trade Nov. 9, 2015), dated February 8, 2016, and available at <http://enforcement.trade.gov/remands/15-127.pdf> (*AR3 Remand Redetermination*), *aff'd*, *Gang Yan Diamond Products, Inc.* 2016 Ct. Intl. Trade LEXIS 49.

² See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) (*AR3 Final Results*).

³ The ATM Single Entity includes Advanced Technology & Materials Co., Ltd., Beijing Gang Yan Diamond Products Co., HXF Saw Co., Ltd., AT&M International Trading Co., Ltd., and Cliff International Ltd. See *Diamond*

DATES: Effective Date: May 21, 2016

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5760 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 2014, the Department published the *AR3 Final Results*, in which we assigned the PRC-wide rate of 164.09 percent to companies including the ATM Single Entity that comprise the PRC-wide entity.⁴ The ATM Single Entity challenged our decision to treat it as part of the PRC-wide entity and assign the PRC-wide rate to it. On November 9, 2015, the Court remanded the *AR3 Final Results* to the Department to reconsider the PRC-wide rate in light of the remand redeterminations for the two previous reviews that the Department issued after the publication of the *AR3 Final Results*.⁵ In these two remand redeterminations, the Department found that the ATM Single Entity was not entitled to a separate rate and, therefore, was part of the PRC-wide entity, and revised the PRC-wide rate using the simple average of the margins that had been calculated for the ATM Single Entity in the underlying administrative reviews and the petition rate in the less-than-fair-value investigation, *i.e.*, 164.09 percent.⁶ On remand for the

Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098, 77099 (December 20, 2013), unchanged in *AR3 Final Results*.

⁴ See *AR3 Final Results*, 79 FR at 35724, n.7.

⁵ See *Gang Yan Diamond Products, Inc. v. United States*, Court No. 14-00148, slip op. 15-127 (Ct. Int'l Trade Nov. 9, 2015).

⁶ See Final Results of Redetermination pursuant to *Diamond Sawblades Manufacturers' Coalition v. United States*, Court No. 13-00078, slip op. 14-50 (Ct. Int'l Trade Apr. 29, 2014), dated April 10, 2015, and available at <http://enforcement.trade.gov/remands/14-50.pdf>, *aff'd*, *Diamond Sawblades Manufacturers' Coalition v. United States*, Court No. 13-00078, slip op. 15-105 (Ct. Int'l Trade Sept. 23, 2015), and Final Remand Redetermination pursuant to *Diamond Sawblades Manufacturers Coalition v. United States*, Court No. 13-00241, slip op. 14-112 (Ct. Int'l Trade Sept. 23, 2014), dated May 18, 2015, and available at <http://enforcement.trade.gov/remands/14-112.pdf>,

third administrative review, the Department revised the PRC-wide rate consistent with the immediately preceding administrative review, *i.e.*, the second administrative review.⁷ On May 11, 2016, the Court upheld our *AR3 Remand Redetermination* in its entirety.⁸

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s final judgment affirming the *AR3 Remand Redetermination* constitutes the Court’s final decision which is not in harmony with the *AR3 Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

Amended Final Results of Review

Because there is now a final court decision, the Department is amending the *AR3 Final Results* with respect to the PRC-wide entity, which includes the ATM Single Entity, as follows:

<u>Exporter</u>	<u>Weighted-Average Dumping Margin</u>
PRC-Wide Entity (which includes the ATM Single Entity)	82.05 Percent

aff’d, *Diamond Sawblades Manufacturers’ Coalition v. United States*, Court No. 13-00241, slip op. 15-116 (Ct. Int’l Trade Oct. 21, 2015).

⁷ See *AR3 Remand Redetermination*. See also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review*, 81 FR 2843 (January 19, 2016), for the revision of the PRC-wide rate for the second administrative review.

⁸ See *Gang Yan Diamond Products, Inc.*, 2016 Ct. Intl. Trade LEXIS 49.

In the event the Court's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, the Department will instruct the U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised rate the Department determined and listed above.

Cash Deposit Requirements

The current cash deposit rate for the PRC-wide entity is 82.05 percent, and thus same as the cash deposit rate established in the *AR3 Remand Redetermination*.⁹ Therefore, there is no need to update the cash deposit rate for the PRC-wide entity as a result of these amended final results.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 31, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

⁹ See *Diamond Sawblades and Parts Thereof From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32344, 32345 (June 8, 2015).

